

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
THE GUARDIAN NEWS, INC.,

Plaintiff,

**ANSWER**

-against-

Docket No.  
07 Civ. 3812 (CLB)

TOWN OF NEW CASTLE, New York, and RICHARD  
POLCARI, individually,

Defendants.  
-----X

Defendants, by their attorneys, MIRANDA SOKOLOFF SAMBURSKY SLONE  
VERVENIOTIS, LLP, as and for their answer to the complaint in the above-captioned matter, sets  
forth as follows:

1. Deny the allegations contained in ¶ “1” of the complaint, and refer all questions of  
law to the Court for adjudication.
2. Deny the allegations contained in ¶ “2” of the complaint, and refer all questions of  
law to the Court for adjudication.
3. Deny knowledge or information sufficient to form a belief as to the truth of the  
allegations contained in ¶ “3” of the complaint.
4. Deny the allegations contained in ¶ “4” of the complaint, and refer all questions of  
law to the Court for adjudication.
5. Admit the allegations contained in ¶ “5” of the complaint.
6. Deny the allegations contained in ¶ “6” of the complaint.

**FIRST CLAIM**

7. As and for a response to the allegations contained in ¶ “7” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶ “6” of the complaint, as though fully set forth herein.

8. Deny the allegations contained in ¶ “8” of the complaint, and refer all questions of law to the Court for adjudication.

**SECOND CLAIM**

9. As and for a response to the allegations contained in ¶ “9” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “6” of the complaint, as though they were fully set forth herein.

10. Deny the allegations contained in ¶ “10” of the complaint, and refer all questions of law to the Court for adjudication.

**THIRD CLAIM**

11. As and for a response to the allegations contained in ¶ “11” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “6” of the complaint, as though they were fully set forth herein.

12. Deny the allegations contained in ¶ “12” of the complaint, and refer all questions of law to the Court for adjudication.

**FOURTH CLAIM**

13. As and for a response to the allegations contained in ¶ “13” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “6” of the complaint, as though they were fully set forth herein.

14. Deny the allegations contained in ¶ “14” of the complaint, and refer all questions of law to the Court for adjudication.

**FIFTH CLAIM**

15. As and for a response to the allegations contained in ¶ “15” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “6” of the complaint, as though they were fully set forth herein.

16. Deny the allegations contained in ¶ “16” of the complaint, and refer all questions of law to the Court for adjudication.

**SIXTH CLAIM**

17. As and for a response to the allegations contained in ¶ “17” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “6” of the complaint, as though they were fully set forth herein.

18. Deny the allegations contained in ¶ “18” of the complaint, and refer all questions of law to the Court for adjudication.

**SEVENTH CLAIM**

19. As and for a response to the allegations contained in ¶ “” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “6” of the complaint, as though they were fully set forth herein.

20. Deny the allegations contained in ¶ “20” of the complaint, and refer all questions of law to the Court for adjudication.

**EIGHTH CLAIM**

21. As and for a response to the allegations contained in ¶ “21” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “6” of the complaint, as though they were fully set forth herein.

22. Deny the allegations contained in ¶ “22” of the complaint, and refer all questions of law to the Court for adjudication.

#### **NINTH CLAIM**

23. As and for a response to the allegations contained in ¶ “23” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “6” of the complaint, as though they were fully set forth herein.

24. Deny the allegations contained in ¶ “24” of the complaint, and refer all questions of law to the Court for adjudication.

#### **TENTH CLAIM**

25. As and for a response to the allegations contained in ¶ “25” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “6” of the complaint, as though they were fully set forth herein.

26. Deny the allegations contained in ¶ “26” of the complaint, and refer all questions of law to the Court for adjudication.

#### **ELEVENTH CLAIM**

27. As and for a response to the allegations contained in ¶ “27” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “6” of the complaint, as though they were fully set forth herein.

28. Deny the allegations contained in ¶ “28” of the complaint, and refer all questions of law to the Court for adjudication.

**TWELFTH CLAIM**

29. As and for a response to the allegations contained in ¶ “29” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “6” of the complaint, as though they were fully set forth herein.

30. Deny the allegations contained in ¶ “30” of the complaint, and refer all questions of law to the Court for adjudication.

**FIRST AFFIRMATIVE DEFENSE**

31. Plaintiff’s complaint fails to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

32. Plaintiff’s complaint is barred by the statute of limitations.

**THIRD AFFIRMATIVE DEFENSE**

33. The individual defendants are protected by qualified immunity.

**FOURTH AFFIRMATIVE DEFENSE**

34. Plaintiff lacks standing.

**FIFTH AFFIRMATIVE DEFENSE**

35. This case, in whole or in part, is not ripe.

**SIXTH AFFIRMATIVE DEFENSE**

36. This case, in whole or in part, does not present a case or controversy.

**SEVENTH AFFIRMATIVE DEFENSE**

37. The challenged legislation represents a reasonable time, place, and manner regulation.

**EIGHTH AFFIRMATIVE DEFENSE**

38. Plaintiff cannot identify any similarly situated persons or entities who are treated more favorably under the challenged legislation.

**NINTH AFFIRMATIVE DEFENSE**

39. The fees charged under the subject legislation are related to the costs of administering the law.

**TENTH TH AFFIRMATIVE DEFENSE**

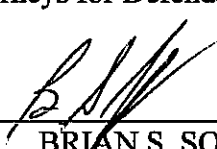
40. Plaintiff may not recover punitive damages against a municipality.

**ELEVENTH AFFIRMATIVE DEFENSE**

41. Plaintiff's constitutional rights were not deprived pursuant to a policy, practice, custom, or procedure of the Village of Tuckahoe.

Dated: Mineola, New York  
June 8, 2007

MIRANDA SOKOLOFF SAMBURSKY  
SLONE VERVENIOTIS, LLP  
Attorneys for Defendants

By:   
BRIAN S. SOKOLOFF (bss-7147)  
240 Mineola Boulevard  
The Esposito Building  
Mineola, New York 11501  
(516) 741-7676  
Our File No. 07-382

TO: LOVETT & GOULD, LLP  
222 Bloomingdale Road  
White Plains, New York 10605

**AFFIDAVIT OF SERVICE BY MAIL**

STATE OF NEW YORK     )  
                                      ) s.s.:  
COUNTY OF NASSAU     )

**MERLISA ANDREWS**, being duly sworn, deposes and says that deponent is not a party to the action, is over 18 years of age and resides in Jamaica, New York.

That on June 8, 2007, deponent served the within **ANSWER** upon:

LOVETT & GOULD, LLP  
222 Bloomingdale Road  
White Plains, New York 10605

the addresses designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

  
**MERLISA ANDREWS**

Sworn to before me this 8<sup>th</sup> day  
of June, 2007.

  
\_\_\_\_\_  
NOTARY PUBLIC

**BRIAN S. SOKOLOFF**  
Notary Public, State of New York  
No. 02SO4914710  
Qualified in Queens County  
Commission Expires November 23, 2009